

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE APRIL 15, 2010

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AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 591

Introduced by Assembly Member De La Torre

February 25, 2009

An act to add Sections 1385.01 and 1385.02 to the Health and Safety Code, and to add Sections 10181 and 10182 to the Insurance Code, relating to health care coverage, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 591, as amended, De La Torre. ~~Health~~ *Individual health* care coverage: premium rates.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Under existing law, no change in premium rates or coverage in a health care service plan contract or health insurance policy may become effective without written prior notification of the change to the contractholder or policyholder. Existing law prohibits a plan or insurer during the term of a group

contract or policy from changing the rate of the premium, copayment, coinsurance, or deductible during specified time periods.

This bill would prohibit a health care service plan or health insurer from increasing the premium rate it charges a subscriber or policyholder *of an individual contract or policy* for a period of 90 days beginning with the date this provision becomes operative. Thereafter, this provision would become inoperative and the bill would prohibit a plan or insurer from increasing premium rates *for individual contracts or policies* by more than the average percentage increase in the medical care component of the consumer price index for the immediately preceding calendar year, as calculated by the United States Bureau of Labor Statistics, ~~unless the plan or insurer files an application with the Department of Managed Health Care or the Department of Insurance, respectively, and the application is approved by that department. The bill would prohibit approval of an application unless the applicant completes an audit showing that its medical loss ratio would meet or exceed a certain percentage, as specified. The bill would require any plan or insurer filing with the Department of Managed Health Care or the Department of Insurance containing a proposed premium rate increase for an individual contract or policy to comply with all other state and federal laws.~~ The bill would also prohibit a plan or insurer from increasing the premium rate it charges a subscriber or policyholder *of an individual contract or policy* during the 12 months following the last premium rate increase. The bill would authorize the Department of Managed Health Care and the Department of Insurance to adopt regulations implementing ~~certain~~ of these provisions, *as specified*.

Because a willful violation of the bill's requirements with respect to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1385.01 is added to the Health and Safety Code, to read:

1385.01. (a) Notwithstanding ~~Section 1374.20 or~~ any other provision of law, a health care service plan shall not increase the premium rate it charges a subscriber *of an individual plan contract* for a period of 90 days beginning on the date this section becomes operative.

(b) This section shall not apply to a plan that increases the premium rate it charges a subscriber *of an individual plan contract* when the subscriber enters into a new or amended contract that includes increased benefits, provided that the increased premium rate is equivalent to the premium rate charged by the plan for contracts that include similar increased benefits.

(c) This section shall not apply to a health care service plan contract that is issued through a publicly funded state health care coverage program, including the Medi-Cal program and the Healthy Families Program, or to Medicare supplement contracts. ~~This subdivision shall not be construed to exempt health care service plan contracts issued through the Public Employees' Medical and Hospital Care Act.~~

(d) This section shall become inoperative 90 days after it becomes operative.

SEC. 2. Section 1385.02 is added to the Health and Safety Code, to read:

1385.02. (a) A health care service plan shall not increase the premium rate it charges a subscriber *of an individual plan contract* by more than the average percentage increase in the medical care component of the consumer price index for the immediately preceding calendar year, as calculated by the United States Bureau of Labor Statistics, ~~unless it submits an application to the department, and the application is approved by the department. An application shall not be approved unless the applicant completes an audit showing that the medical loss ratio of the applicant, taking into account the proposed premium rate increase, would meet or exceed the applicable percentage provided for in Section 2718 of the federal Public Health Service Act (Public Law 111-148). The department shall have six months following the receipt of an application to approve or disapprove the application. Statistics. In~~

1 *addition, any plan filing with the department containing a proposed*
2 *premium rate increase for an individual plan contract shall comply*
3 *with all other state and federal laws.*

4 (b) A health care service plan shall not increase the premium
5 rate it charges a subscriber *of an individual plan contract* during
6 the 12 months following the effective date of the immediately
7 preceding premium rate increase applied by the plan to the
8 subscriber.

9 (c) The department may adopt regulations to implement this
10 section in accordance with Chapter 3.5 (commencing with Section
11 11340) of Division 3 of Title 2 of the Government Code.

12 (d) This section shall not apply to a health care service plan
13 contract that is issued through a publicly funded state health care
14 coverage program, including the Medi-Cal program and the
15 Healthy Families Program, or to Medicare supplement contracts.
16 ~~This subdivision shall not be construed to exempt health care~~
17 ~~service plan contracts issued through the Public Employees'~~
18 ~~Medical and Hospital Care Act.~~

19 (e) This section shall become operative on the date that Section
20 1385.01 becomes inoperative.

21 SEC. 3. Section 10181 is added to the Insurance Code, to read:

22 10181. (a) ~~Notwithstanding Section 10199.48 or any other~~
23 ~~provision of law, a health insurer shall not increase the premium~~
24 ~~rate it charges a policyholder of an individual health insurance~~
25 ~~policy for a period of 90 days beginning on the date this section~~
26 ~~becomes operative.~~

27 (b) This section shall not apply to an insurer that increases the
28 premium rate it charges a policyholder *of an individual health*
29 *insurance policy* when the policyholder enters into a new or
30 amended policy that includes increased benefits, provided that the
31 increased premium rate is equivalent to the premium rate charged
32 by the insurer for policies that include similar increased benefits.

33 (c) This section shall not apply to a health insurance policy that
34 is issued through a publicly funded state health care coverage
35 program, including the Medi-Cal program and the Healthy Families
36 Program, or to Medicare supplement policies. ~~This subdivision~~
37 ~~shall not be construed to exempt health insurance policies issued~~
38 ~~through the Public Employees' Medical and Hospital Care Act.~~

39 (d) This section shall become inoperative 90 days after it
40 becomes operative.

SEC. 4. Section 10182 is added to the Insurance Code, to read:

10182. (a) A health insurer shall not increase the premium rate it charges a policyholder *of an individual health insurance policy* by more than the average percentage increase in the medical care component of the consumer price index for the immediately preceding calendar year, as calculated by the United States Bureau of Labor Statistics, ~~unless it submits an application to the department, and the application is approved by the department. An application shall not be approved unless the applicant completes an audit showing that the medical loss ratio of the applicant, taking into account the proposed premium rate increase, would meet or exceed the applicable percentage provided for in Section 2718 of the federal Public Health Service Act (Public Law 111-148). The department shall have six months following the receipt of an application to approve or disapprove the application.~~ *Statistics. In addition, any health insurer filing with the department containing a proposed premium rate increase for an individual health insurance policy shall comply with all other state and federal laws.*

(b) A health insurer shall not increase the premium rate it charges a policyholder *of an individual health insurance policy* during the 12 months following the effective date of the immediately preceding premium rate increase applied by the insurer to the policyholder.

(c) The department may adopt regulations to implement this section in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(d) This section shall not apply to a health insurance policy that is issued through a publicly funded state health care coverage program, including the Medi-Cal program and the Healthy Families Program, or to Medicare supplement policies. ~~This subdivision shall not be construed to exempt health insurance policies issued through the Public Employees' Medical and Hospital Care Act.~~

(e) This section shall become operative on the date that Section 10181 becomes inoperative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

4 SEC. 6. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety within
6 the meaning of Article IV of the Constitution and shall go into
7 immediate effect. The facts constituting the necessity are:

8 In order to protect consumers from ~~health care coverage premium~~
9 ~~rate increases~~ *premium rate increases on individual health care*
10 *coverage*, it is necessary that this act take effect immediately.